

KTI.13446

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

**ALEXANDER GARCIA BLANCO,
ALEYDA HERNANDEZ AVILA, AND
ABEL GARCIA MEDINA**

Plaintiffs,

vs.

**KNIGHT TRANSPORTATION, INC.,
KNIGHT REFRIGERATED, LLC,
ARTURO ANAYA AYALA, NORCO
CORPORATION AND SOUBANH
DOUANGDARA.**

Defendants.

4:21-CV-00040

**CIVIL ACTION NO.
JURY DEMAND**

DEFENDANT KNIGHT REFRIGERATED, LLC'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant **KNIGHT REFRIGERATED, LLC**, in the above entitled and numbered cause, and files this Notice of Removal of the above-captioned case. Removal is based on 28 USC § 1332 (diversity jurisdiction) and is authorized by 28 USC §§ 1441 and 1446.

I. BACKGROUND

1. On or about May 18, 2021, Plaintiffs Alexander Garcia Blanco, Aleyda Hernandez Avila, and Abel Garcia Medina (hereinafter collectively referred to as "Plaintiffs") sued Defendants Knight Transportation, Inc., Knight Refrigerated, LLC, Arturo Anaya Ayala, Norco Corporation, and Soubanh Douangdara (hereinafter collectively referred to as "Defendants"), in the 143rd Judicial District Court, Ward County, Texas, Cause No. 21-05-25759-CVW, alleging claims of recovery in regards to Alexander Garcia's

death allegedly as the result of a multi vehicle collision that occurred on February 14, 2021 in Ward County, Texas. Plaintiffs sue Defendants to recover damages under Chapter 71.001 et. seq. of the Texas Civil Practices & Remedies Code, commonly referred to as the “Wrongful Death Statute.”

2. Plaintiff Alexander Garcia Blanco is a resident citizen of Cuba, currently residing at Calle 32 Entre Calle 36 y Calle 35, Edificio #22 Apto. 2, Reparto Camilo Cienfuegos in Las Tunas, Las Tunas, Cuba.
3. Plaintiff Aleyda Hernandez Avila is a resident citizen of Cuba, currently residing at Aguada Linea Calle 1 #55 in Vazquez, Las Tunas, Cuba.
4. Plaintiff Abel Garcia Medina is a resident citizen of Cuba, currently residing at Aguada Linea Calle 1 #55 in Vazquez, Las Tunas, Cuba.
5. Defendant Knight Transportation, Inc. is organized in the State of Arizona, with its corporate office and principal place of business at 20002 N. 19th Avenue, Phoenix, Arizona 85027.
6. Defendant Knight Refrigerated LLC is organized in the State of Arizona, with its corporate office and principal place of business at 20002 N. 19th Avenue, Phoenix, Arizona 85027.
7. Defendant Arturo Anaya Ayala is a resident of Los Angeles County, California and he currently resides at 8528 Rose Street, in Bellflower, California 90706.
8. Defendant Norco Corporation is organized in the State of Texas, with its corporate office and principal place of business at 1085 Jarvis Road, in Saginaw, Texas 76179.
9. Defendant Soubanh Douangdara is a resident of Tarrant County, Texas and he currently resides at 2755 Bluemound Road W., in Fort Worth, Texas 76179.

10. Plaintiff's Original Petition, filed contemporaneously herewith, states that the amount of the damages sought by Plaintiffs is more than \$1,000,000.

II. BASIS FOR REMOVAL

11. Removal is proper under 28 U.S.C. § 1332(a) because Plaintiffs' suit is a civil action in which this Court has original jurisdiction over the parties, based upon diversity jurisdiction under 28 U.S.C. § 1332. This action is removable to this Court pursuant to the provisions of 28 U.S.C. § 1441(b) because Plaintiffs are residents and citizens of Cuba, Defendants Knight Transportation Inc. and Knight Refrigerated LLC are corporations, with their principal places of business in the State of Arizona. Norco Corporation is a corporation, with its principal place of business in the State of Texas. Defendant Soubanh Douangdara is a Texas resident. Defendant Arturo Anaya Ayala is a Texas resident. Additionally, the amount in controversy exceeds \$75,000.

A. Complete Diversity Exists.

12. As this Court is aware, for diversity purposes, a person is considered a citizen of the state where that person is domiciled. In the present case, Plaintiffs are domiciled in Las Tunas, Cuba. Defendants Knight Transportation, Inc. and Knight Refrigerated LLC are not domiciled in the State of Texas, but rather were formed in Arizona, with their principal places of business located at 20002 N. 19th Avenue, Phoenix, Arizona 85027. Defendant Norco Corporation is domiciled in the State of Texas with its corporate headquarters located at 1085 Jarvis Road, in Saginaw, Texas 76179. Defendant Arturo Anaya Ayala is domiciled in Bellflower, California. Defendant Soubanh Douangdara is domiciled in Fort Worth, Texas. Because the Plaintiffs and the Defendants do not share in citizenship in any state, removal is proper on diversity grounds.

13. All Defendants are now, and were at the time the removed action was commenced, diverse in citizenship from the Plaintiffs. 28 U.S.C. § 1332.

B. The Amount in Controversy Exceeds \$75,000.

14. As previously stated, Plaintiffs filed their Original Petition on May 18, 2021. Plaintiffs identified the amount in controversy to be over \$1,000,000.

15. Accordingly, Plaintiffs seek damages beyond the threshold amount of \$75,000, establishing an amount in controversy over \$1,000,000.

16. Accordingly, because this notice of removal has been filed within the time available after Plaintiffs provided their Original Petition, providing their claim for relief, this removal is proper and timely under 28 U.S.C. § 1446(b)(3).

17. The United States District Court for the Western District of Texas, Pecos Division, embraces Ward County, Texas, the place where the state court action was filed and is pending.

18. The live pleadings before the state court are Plaintiffs' Original Petition and Defendant Knight Transportation, Inc.'s Original Answer. No other motions are pending before the state court.

19. All pleadings, process, orders served upon Defendants in the state court action are attached to this Notice as required by 28 U.S.C. § 1446(a).

20. Defendant Knight Transportation, Inc. hereby demands a trial by jury in accordance with the provisions of FED. R. CIV. P. 38.

WHEREFORE, PREMISES CONSIDERED, Defendant Knight Refrigerated, LLC, as a party diverse with the Plaintiffs requests that this action be immediately and entirely removed upon filing of this Notice of Removal to the United States District Court for the Western District

of Texas, Pecos Division, and for such other and further relief to which it may show itself to be justly entitled in equity or law.

Respectfully submitted,

FEE, SMITH, SHARP & VITULLO, L.L.P.

/s/ Dennis L. Daniels

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**ATTORNEYS FOR DEFENDANT
KNIGHT REFRIGERATED, LLC**

CERTIFICATE OF SERVICE

THIS WILL CERTIFY that on 11th day of June, 2021, I electronically submitted the foregoing document with the clerk of court of the U.S. District Court, Western District of Texas, Pecos Division, using the electronic case files system of the court. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Dennis L. Daniels

DENNIS L. DANIELS